G. R. S. 59] GPB—15,000—20 12-13

GENERAL AND REVENUE SECRETARIAT.

1900-01
~~191~~.
(Muzrai)

File No. 72

Serial Nos.

Papers Filed.

*Month*_____

SUBJECT.

Declining to interfere in the matter of the Puja Vale of the Babaneswara Temple & two Brindavanams in the Village of Alur in Chamarajnagar Taluk as they are non-Muzrai institutions

PREVIOUS REFERENCES.	LATER REFERENCES.

MYSORE DEWAN'S OFFICE.

MUZRAI BRANCH.

1900-01

OFFICE NOTE

SUBJECT

Non-Muzrai Institn.

Puja Hak of the Basa-
- Veswara Temple and two
Brindavanams in the
Village of Alur in Chama-
- rajanagar Taluk :—

LAST REFERENCE.

~~Letter~~ Appeal Pet: No. 1348 dated 4th May 1901

from Matada Veerabhayya
of Alur

Herewith submitted an
English Abstract of the
Appeal Petition. The
Appellant appeals against
the order of the Deputy Comr
of the Mysore District who
returned his plaint "for
presentation to the proper
Court" on the ground
that

that the Temple or the Guddige referred to in the petition

is not a mosque Institution.

Latest -

The Government Gro

No 652-60 dated 1st December 1897

lays down that institutions

which do not enjoy any grant

from Government either

in cash or land, are not

mosque Institutions and that the

Government in the mosque

Department declines jurisdiction

with regard to such non-

mosque Institutions. A printed

Copy of the Gro. is put up

for reference.

Submitted for orders

Inform that the decision cited applies only to such mosque as enjoy a cash or land grant from Govt

Yes
15.12.01

KS
23/6/01

X Mysore Law Reports Vol XVIII

X Put up 2/6/01

No. 652—60, DATED, BANGALORE, 1ST DECEMBER 1897.

ORDER THEREON.—The shrine of Sure Yeragatanayaka in Belaghatta does not enjoy any grant from Government either in cash or land and it is therefore not a Muzrai institution. The invariable custom has been for the Government in the Muzrai Department to decline jurisdiction with regard to such non-Muzrai institutions. Sir Mark Cubbon's Circular Order of 26th October 1854, read above must be construed by the light of that custom; and indeed, the latter part of that order expressly shows that the whole order was meant to apply to "Muzrai affairs" which then used to be managed in the Commissioner's Huzur; and the affairs of non-Muzrai institutions like the one now in question were never, as a matter of fact, managed in the Commissioner's Huzur in 1854, or at any other time. Under such circumstances, the decision of the Deputy Commissioner that the Muzrai Department has no jurisdiction under the Order of 26th October 1854 to adjudicate regarding pujari rights of a non-Muzrai temple must be confirmed and this appeal rejected.

2. The Officiating District Judge's Judgment in A. S. No. 169 of 1893-94, does not show that the fact of the temple in question being a non-Muzrai institution had ever been brought to his notice; nor did the present appellant seek a final adjudication by the Chief Court upon the decision of the Officiating District Judge. Under such circumstances if the present appellant has been prejudiced by the Officiating District Judge's decision, this has been due to his own neglect and the Government cannot now afford him any redress.

A. SREENIVASSACHARLU,
Muzrai Secretary

To—The Deputy Commissioner, Chitaldrug District, returning records.
The Deputy Commissioners of other Districts, for information.
The Registrar, Chief Court of Mysore, for information.

Exd.—H.A.R.

READ :—

Petition No. 1736, dated 13th May 1897, from Pujari Boraiya (minor, through his next friend Obava) of Belaghatta, Chitaldrug taluk, appealing against the Deputy Commissioner's order, dated 4th March 1897, dismissing the petitioner's suit instituted in the Court of the Amildar of Chitaldrug in the Muzrai side, for a declaration of his right to the Pujarishp of the shrine of Sure Yeragatanayaka in Belaghatta and to the possession of certain properties belonging to it.

READ :—

The following order, dated 4th March 189", passed by the Deputy Commissioner of Chitaldrug in the petitioner's case :—

The plaintiff filed a suit in the Chitaldrug Amildar's Court for a declaration of his right to be considered the pujari of a shrine dedicated to a Mahatma named Yeragatarayaka and for possession of property belonging to that shrine.

2. The Amildar refused to entertain the suit on the preliminary objection that the shrine enjoys no grant or inam from Government and is therefore not in any way under the control of the Muzrai Department of Government.

3. The appellant now appeals against the said order of the Amildar.

4. Mr. Krishna Rao, Advocate, was heard for the appellant and Mr. Anantha Chetti, Advocate, for the respondents.

5. It has to be noted that the matter in dispute formed the subject of a civil suit which was dismissed in the Court of first instance and this dismissal was confirmed in appeal by the District Judge of Nagar, both the presiding Judges holding that Civil Courts have no jurisdiction in this case, only Muzrai Officers having jurisdiction to try cases regarding pujari rights.

6. It is admitted on both sides that the shrine stated above does not enjoy any grant from Government, and Government has therefore no control over that institution.

7. The Advocate for appellant urges that it is not necessary that there should be grants to temples in order to confer jurisdiction upon Muzrai Officers in respect of disputes concerning pujari rights of those temples. The Order of 1854, which is re-published for guidance, is also very general in its expression. It prohibits the institution of suits for pujari rights in the Courts of the Division, the Amildars being empowered to enquire into them and dispose of them, their decision being subject to appeal. I have, however, to consider not only the wording of the order but its *rationale*.

8. There is an analogy in the case of suits in respect of rights to hereditary village offices, such as Shanbhogi, Pateli, &c. These offices have attached to them emoluments granted by Government. Suits in regard to these offices are excluded from the Civil Courts. The same policy that led to the exclusion of this class of suits from the ordinary Civil Courts has also, I am of opinion, led to the exclusion of cases regarding pujari rights from those Courts; and although the words "Pujari rights concerning temples enjoying grants from Government" are not expressly mentioned in the order, the words actually used have to be construed to bear that meaning. Otherwise, the result will be that Revenue Officers having Muzrai functions will be called upon to adjudicate cases regarding institutions not under their control, and in which they are, for that reason, not competent to execute the orders passed by them. The shrine in dispute is a private one belonging to a community who have evidently a right to dispose of the pujarishp and other affairs concerning it in the way they think best. I consider Muzrai Officers have no right to interfere with the exercise of that right.

9. I am, therefore, of opinion that the suit has been rightly dismissed by the Taluk Amildar. The appeal is dismissed with costs.

READ ALSO :—

The following Circular Order No. 30, dated the 26th October 1854, issued by the late Commissioner Lieutenant-General Sir Mark Cubbon regarding suits for pujari rights.

Circular.

No. 30.

To.

The Superintendents of Divisions.

Sir,

I have the honor by desire of the Commissioner to request that you will have the goodness to cause the necessary instructions to be issued to the Amildars prohibiting the institution of suits for pujari rights in the Courts of your division, but the Amildars may enquire into such disputes * * * * and decide them, and that these decisions may be appealed against to the Commissioner's Huzur where the Muzrai affairs are managed.

I have the honor, &c,

(Sd.) F CUNNINGHAM,
Secretary.

BANGALORE, 26TH OCTOBER 1854.

1897-98

GOVERNMENT OF MYSORE

MUZRAI

PROCEEDINGS

Dated 1*st December* 1897

No. 652-60

Observing that institutions which do not enjoy any grant from Government either in cash or land are not Muzrai institutions.

M.G.C.P.B.—16-12-97—120

Petn of late Chiefs Commn ordg Inam
of 26 to 1854 granted vide Resn
3.5.01

Genl. Records.

Please put up the
Notification referred to

AKR
14/5/01

Sectn Br.—

Please refer to Proc.
No. C 25-34 & 14 3 95 issued by
Mysore Branch, with which
the note regd has been re-
-published. If the original
of the same be regd the same
may be obtained from the
Land Branch

[illegible]
15.5.01

RJB. 15/5/01

Mysr. Br.

Please put up a
Copy of the Proceedings
referred to

[illegible]
15.5.01

Submitted. Illegible to be transferred to the Mysore
Branch
[illegible]
16/5/01

[illegible] 17/5/01

Rec'd 20/5/01

OFFICE OF THE DEWAN OF MYSORE
RECEIVED
Date 8 MAY 1901
No. 1378
GENERAL BRANCH

No 2298

Name of Petitioner Lutada V

Village Aloor

Taluk Chamarajnagar

District Mysore

Date of Arzi 4.5.01

Date of Receipt 8.5.01

Date of Disposal

No of Enclosure 3

ABSTRACT

The petitioner's ancestors had a Basaveswara's temple & two Brundavanas built in the village of Aloor in Chamarajnagar taluk besides a Gaddige in the house belonging to the family. The right of performing puja to the above and receiving Kanike from devotees rests in the family of the petitioner.

Upon the enquiries of the petitioner taken objection

to his performing the puja
and Enjoying the Kaulika
has filed a suit, O. S. no: 493
of 1897-98, in the Munsiffs
Court at Nanjangode for
Establishing his right thereto.
In accordance with the late
Chief Commissioner's Notifi
cation dated 26.10.1854
and in accordance with the
Full Bench decision of the
Chief Court reported in
Mysore Law report Vol: XVIII
p. 1, the Munsiff dismissed
the suit. The petitioner then
applied to the Amildar on
a stamped paper. The Amild
returned his plaint as having
no jurisdiction to Enquire into
such matters. He thereupon ap-
pealed to the Dy Commr. That
officer also rejected the appeal
under Order No. $\frac{65-2}{60}$ of 1.12.1897.
The above result was known
to him very late on account

A

of the prevalance of Plague
in March 1901, i-e, when the
petitioner came to underst-
stand the above result he
immediately applied for a
copy of the order which he
obtained along with his plaint

The petitioner states that
in accordance with the
Full Bench decision the
Civil Courts have no juris-
diction and prays that
orders may be issued to
have his suit Enquired
into by the Revenue Authorities

CA
11/5/01

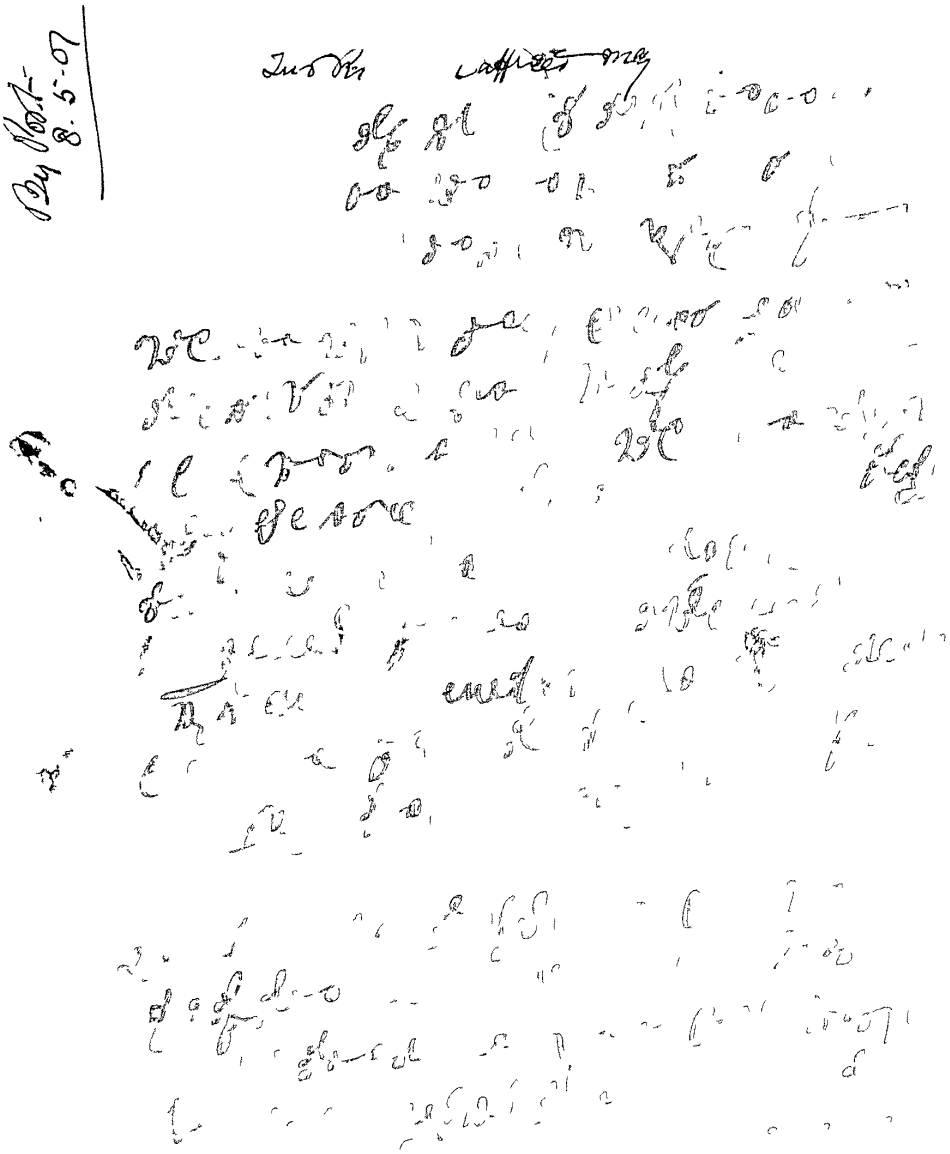
Enclosures:

1. Plaint to the Taluk
Amildar on u Stamps
paper

Copy of the Judgment in O.S.
No 493 of 97-98 on the file
of the Munsif Court Nanjun
&c

Do of the Comr. Mysore
in Rev: Misc No 1 of 1900-01

2298R
8-5-1907



No. 3336 of 26/4/04
Encl. 4

Endorsement forwarded to Anantha Veerabhadra of Ulur in the Channarayapatna Taluk regarding the Puja Work of the Basaveswara Temple and the Brindavanams in the said village

The petitioner is informed that the decision of the Chief Court cited by him applies only to such mufassil Institutions as enjoy a cash grant or a land revenue free grant.

The enclosures to his petition are accordingly returned.

15/4/04 DPI

17.4.04